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AMENDMENTS TO THE DRAWINGS

Applicant submits herewith a replacement sheet for FIG. 1, which has added a three-dimensional drainage net 17 positioned under the geotextile container 16 as disclosed on page 4, lines 10-12 of the specification and recited in claim 11. Accordingly, no new matter was added in the present amendment to the drawings.

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REMARKS

This Amendment and Response amends claims 1, 12, 17 and 25 and adds new claim 26 without prejudice. With this Amendment and Response, claims 1-14, 16-22 and 24-26 are pending in this application.

I. New claim 26

The Action indicates at ¶ 12 that “the addition to the combinations recited in claims 1, 17, and 25 of the recitations of both the three dimensional drainage net of claim 11 and the chemical conditioner and polymer addition of claim 16 would patentably distinguish over the prior art of record.” Applicant’s Assignee has accordingly added new claim 26, which incorporates the subject matter of claim 1 (prior to the amendment set forth herein and with the exception of the self-supporting limitation), claim 11, and claim 16. Applicant’s Assignee believes that new claim 26 is therefore allowable.

II. Objection to the Drawings

The Action objects to the drawings under 37 CFR 1.83(a) as failing to show a three-dimensional drainage net as recited in the claims. Applicant’s Assignee submits herewith an amended FIG. 1, which illustrates a three-dimensional drainage net positioned under the geotextile container. Applicant’s Assignee thus respectfully requests withdrawal of the objection to the drawings.

III. 35 U.S.C. § 102 Rejections

The Action rejects claims 1-7, 9, 10, 12, 14, 17-19, 21, 22 and 25 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,835,314 to *Keller et al.* Applicant’s

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Assignee respectfully traverses this rejection and requests reconsideration and withdrawal thereof.

Independent claims 1, 17, and 25 have been amended to recite, *inter alia*, at least one geotextile container that is positioned above-ground. All references to a self-supporting geotextile container have been removed from these claims. A geotextile container positioned above-ground is clearly illustrated in FIGS. 1 and 2 and thus the specification fully supports this amendment. Furthermore, the entirety of the subject matter recited in amended independent claims 1, 17, and 25 is fully supported by Provisional Application 60/271,853, filed on February 27, 2001 and to which the present application claims priority. Thus, *Keller et al.* – having a March 8, 2002 priority date – does not qualify as prior art to these claims. Accordingly, the Action's rejection of claims 1, 17, and 25 – as well as claims 2-7, 9, 10, 12, 14, 18, 19, 21, and 22 which ultimately depend therefrom – as anticipated by *Keller et al.* should be withdrawn.

IV. 35 U.S.C. § 103 Rejections

A. Claims 1, 3, 4, 6, 7, 9-12, 17-19 and 22

The Action rejects claims 1, 3, 4, 6, 7, 9-12, 17-19 and 22 under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 5,810,510 to *Urriola* in view of U.S. Patent No. 4,501,665 to *Wilhelmson*. Applicant's Assignee respectfully traverses this rejection and requests reconsideration and withdrawal thereof.

The Action maintains that *Urriola* discloses all of the elements of independent claims 1 and 17 except a liquid reservoir for collecting the filtered liquid. The Action relies upon *Wilhelmson* to supply this missing element, maintaining that "[i]t would therefore have been

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obvious for one skilled in the art to add such a reservoir for collecting liquid to the device or *Urriola*” Action, ¶ 2. Applicant’s Assignee respectfully disagrees.

Urriola discloses underground drainage systems intended to emulate, more closely, natural drainage patterns through collection, transport, and return of storm water to the environment. Col. 2, lines 1-7. More specifically, *Urriola* is directed to filtering water in underground cells or tanks that collect waste while allowing the water to permeate directly through the walls and “return [] to the environment through porous surfaces at a locality as close as possible to the point of collection.” Col. 2, lines 5-7; *see also* col. 4, lines 7-8 and lines 37-42; col. 5, lines 62-64. Thus, the entirety of *Urriola* is directed to returning water back directly to the soil through emulation of natural drainage patterns.

Nothing in *Urriola* teaches or suggests that it would be beneficial to collect the filtered water in a liquid reservoir. Rather, one with skill in the art would not have been motivated to modify the underground drainage system of *Urriola* first to collect the filtered water as allegedly taught in *Wilhelmson* because doing so would not return the water directly back to the soil and thereby emulate natural drainage patterns and indeed would thwart the entire purpose of *Urriola*. For at least this reason, one of skill in the art would not have been motivated to combine (and indeed would have been dissuaded from combining) the teachings of *Urriola* and *Wilhelmsom* to provide a liquid reservoir in the *Urriola* system. These references are therefore not properly combinable and do not render obvious independent claims 1 and 17 or claims 3, 4, 6, 7, 9-12, 18, 19, and 22 which ultimately depend from one of these independent claims.

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Furthermore, as discussed above, independent claims 1 and 17 have been amended to recite, *inter alia*, at least one geotextile container that is positioned above ground. Neither *Urriola* nor *Wilhelmson* teaches or suggests a geotextile container that is positioned above-ground. As discussed above, the entirety of *Urriola* is directed to and only teaches returning water directly to soil via tanks positioned underground. Nothing in *Urriola* teaches or suggests that it would be beneficial to position the tanks above-ground and indeed doing so would prevent the intended delivery point of the water. Moreover, *Wilhelmson* fails to teach or suggest use of a geotextile container at all but rather relates to a self-contained sewage treatment system having a waterless tank 2 that is partially buried in the ground and a septic tank 23 that must be buried at a lower level in the ground than the waterless tank 2. (*Wilhelmson*, Col. 3, lines 52-53, Col. 5, lines 18-21). Because neither *Urriola* nor *Wilhelmson* teaches or suggests a geotextile container that is positioned above-ground, when combined they fail to establish a prima facie case of obviousness. These references fail to render obvious independent claims 1 and 17 and dependent claims 3, 4, 6, 7, 9-12, 18, 19, and 22 for this additional reason.

For at least the above reasons, Applicant's Assignee submits that claims 1, 3, 4, 6, 7, 9-12, 17-19 and 22 are allowable.

B. Claims 2, 13, 20 and 25

The Action rejects claims 2, 13, 20 and 25 under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 5,810,510 to *Urriola* in view of U.S. Patent No. 6,083,386 to *Lloyd*. Applicant's Assignee respectfully traverses this rejection and requests reconsideration and withdrawal thereof. Claims 2, 13, and 20 depend from allowable independent claims 1 and

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17, respectively. These claims are therefore allowable at least by virtue of their dependence from an allowable claim.

The Action maintains that *Urriola* teaches every element of claims 2, 13, 20, and 25 except for the waste reservoir recited in claims 2 and 25 and the primary and secondary geotextile containers recited in claims 13 and 20. However, all of these claims require a liquid reservoir, which the Action expressly acknowledges is *not* taught in *Urriola*. Action, ¶ 2. Nor, as explained above, would it be obvious to one of skill in the art ever to provide a liquid reservoir in the *Urriola* system.

Moreover, one of skill in the art would not be motivated to adapt *Urriola* to include a waste reservoir as recited in claims 2 and 25 or primary and secondary geotextile containers as recited in claims 13 and 20.

To begin, *Urriola*'s intent is to "distribute rainwater in an area as close as possible to the area of the rainfall." Col. 5, lines 62-64; see also col. 2, lines 5-7. Collecting the pre-filtered rainwater in a waste reservoir is directly contrary to the teachings of *Urriola* which calls for the rainwater to flow *via natural drainage patterns* back into the ground. More specifically, interfering with the water's natural drainage pattern by first forcing the water into a waste reservoir would compromise the water's distribution back to the "area as close as possible to the area of the rainfall," and thus thwart the intended result of the *Urriola* system. For at least this reason, one of skill in the art would not be motivated to adapt the *Urriola* system to include a waste reservoir as allegedly taught in *Lloyd*.

Furthermore, nothing in *Urriola* teaches much less suggests that it would be beneficial to further filter the water that is returned to the ground by providing a secondary

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geotextile container. Moreover, since it would not be obvious to provide a liquid reservoir to collect the water filtered from the primary geotextile container, it certainly would not be obvious to funnel the filtered water into a second geotextile container (which inherently requires capture of the water filtered from the primary geotextile container). Again, doing so would interfere with the natural drainage of the water – a result that the *Urriola* system is expressly intended to prevent. Given the complete lack of teaching or suggestion in *Urriola* to do so and the lack of any reason for doing so, one of skill in the art would not be motivated to modify the *Urriola* system to include a secondary geotextile container.

Finally, claim 25 has been amended to recite a geotextile container positioned above-ground. Claims 2, 13, and 20 all ultimately depend from a claim that has been similarly amended. As explained *supra* Part IV.A, *Urriola* fails to teach a geotextile container positioned above-ground. *Lloyd* does not disclose a geotextile container at all, much less a geotextile container above-ground.

For at least the reasons set forth above, one of skill in the art would not be motivated to modify the *Urriola* system to include a waster reservoir or primary and secondary geotextile containers, as allegedly taught in *Lloyd*. Thus, *Urriola* and *Lloyd* are not properly combinable and do not render obvious claims 2, 13, 20, and 25. These claims are allowable for at least this reason.

Moreover, even when combined, these references fail to teach or suggest a geotextile container that is positioned above-ground and thus fail to establish a *prima facie* case of obviousness. Claims 2, 13, 20, and 25 are allowable for this additional reason.

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C. Claims 5, 8, 14 and 21

The Action rejects claims 5, 8, 14 and 21 under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 5,810,510 to *Urriola* in view of U.S. Patent No. 4,664,798 to *Bergh*. Applicant's Assignee traverses this rejection and requests reconsideration and withdrawal thereof. Claims 5, 8, and 14 and claim 21 ultimately dependent from allowable claims 1 and 17, respectively, and are therefore allowable for at least this reason.

D. Claims 16 and 24

The Action rejects claims 16 and 24 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,835,314 to *Keller et al.* in view of U.S. Patent No. 4,882,069 to *Pohoreski*, U.S. Patent No. 5,006,639 to *Tono*, or U.S. Pat. No. 5,906,750 to *Haase*. Applicant's Assignee traverses this rejection and requests reconsideration and withdrawal thereof. Claim 16 and claim 24 depend from allowable claims 1 and 17, respectively, and are therefore allowable for at least this reason.

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E. Claim 8

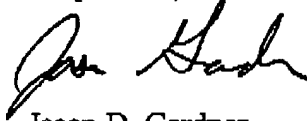
The Action rejects claim 8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,835,314 to *Keller et al.* in view of U.S. Patent No. 4,664,798 to *Bergh*. Applicant's Assignee respectfully traverses this rejection and requests reconsideration and withdrawal thereof. Claim 8 depend from allowable claim 1 and is therefore allowable for at least this reason.

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CONCLUSION

Applicant's Assignee respectfully submits that claims 1-14, 16-22 and 24-26 are in condition for immediate allowance and requests early notification of their allowance. If there are any matters that can be addressed by telephone, the Examiner is urged to contact the undersigned.

Respectfully submitted,



Jason D. Gardner
Reg. No. 58,180

KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309-4530
(404) 745-2520